

NOV 16 2005

CATHY A. CATTERSON, CLERK  
U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

ROBERT L. LOEH,

Plaintiff - Appellant,

V.

CITY OF SAN DIEGO POLICE  
DEPARTMENT; et al.,

Defendants - Appellees.

No. 05-55036

D.C. No. CV-01-02184-DMS/PCL

MEMORANDUM<sup>\*</sup>

Appeal from the United States District Court  
for the Southern District of California  
Dana M. Sabraw, District Judge, Presiding

Submitted November 8, 2005<sup>\*\*</sup>

Before: WALLACE, LEAVY, and BERZON, Circuit Judges.

Robert L. Loeh appeals pro se the district court's order dismissing his *Bivens* action challenging the search of his off-base residence by six Naval Criminal

---

<sup>\*</sup> This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

<sup>\*\*</sup> The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

Investigative Service agents. We dismiss.

The district court did not set forth judgment on a separate document. “When a judgment is not set forth on a separate document, then it is deemed entered for purposes of appeal 150 days from entry on the civil docket. Fed. R. App. P. 4(a)(7)(A)(ii).” *ABF Capital Corp. v. Osley*, 414 F.3d 1061, 1064 (9th Cir. 2005). On March 30, 2004, the district court denied Loew’s request for reconsideration, so judgment was deemed entered on August 27, 2004. Because the United States was a party, the deadline to file a notice of appeal ran 60 days from entry of judgment. Fed. R. App. P. 4(a)(1)(B). The time within which to file a notice of appeal therefore expired on or about October 26, 2004. Loeh filed the notice of appeal on January 3, 2005, over two months late.

**DISMISSED.**